

MINUTES
Texas Board of Health Meeting
March 24, 2002

The March 24, 2002, meeting of the Texas Board of Health (Board) was called to order at 8:34 a.m., at the Radisson Plaza Hotel, 815 Main Street, Crystal Ballroom B, Fort Worth, Texas. Mario R. Anzaldua, M.D., Chair, presided. A quorum was present with members George H. McCleskey, Vice-Chair, Beverly Robinson, Ph.D., R.N., C, F.A.A.N., Margo Scholin, B.S.N., M.S., J.D., Raymond Hannigan and Amanullah Khan, M.D., Ph.D. in attendance.

Registered Guests

Bert Mijares, Mijares Mora Architects, Inc.
Carol Daniel, CDA
Bruce Davis, Texas Building and Procurement Commission
Sharon Bayne, Montgomery Health Department
Gail W. Johnson, Texas Midwifery Board
Steve Montgomery, OZ Systems
Elizabeth Sjoberg, Texas Hospital Association
Jim Willmann, Texas Nurses Association
Celestino Garcia, City of Midland
Toby Cross, Ector County Health Department/TPHA
Hardy Loe, Jr., M.D., U. T. School of Public Health
Libby Watson, Assistant City Manager, Fort Worth
John Herbold, D.V.M., M.P.H., Ph.D., President, Texas Public Health Association
Daniel B. Reimer, Director, City of Fort Worth Public Health Department
Lou Brewer, R.N., M.P.H., Director, Tarrant County Public Health Department
Bobby Jones, Tarrant County Public Health Department
Mike A. Lester, TAMHO/City of Baytown
Angelica Jimenez, El Paso Health Network

Dr. Anzaldua welcomed guests including officials from the City of Fort Worth, Texas Public Health Association, City of Fort Worth Public Health Department and the Tarrant County Public Health Department. Also in attendance at the meeting were Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, and other key staff members of TDH.

Dr. Anzaldua thanked the respective Fort Worth officials for their warm welcome to Fort Worth.

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. ANZALDUA,
THE MINUTES OF THE FEBRUARY 21, 2002 TEXAS BOARD OF HEALTH MEETING WERE

APPROVED.

Dr. Sanchez spoke regarding recent activities as Commissioner and presented the Commissioner's Report. A discussion followed among the Board members and Dr. Sanchez about obesity in Texas. No action was taken. (*Attachments I and II*)

Ms. Machel Pharr gave an update regarding the 1%, 2% and 3% Contingency Plans. The plans were requested as a cost saving measure in the event that the state found it necessary to reduce its revenue estimates for the biennium. A plan was submitted to the Governor's Office and the Legislative Budget Board on March 15, 2002.

Ms. Debra Stabeno, Deputy Commissioner for Programs, presented an update on Children with Special Healthcare Needs (CSHCN) activities. A final draft of an implementation plan to address the Health and Human Services Commission (HHSC) report, an update on expenditure projections, and a status report are being prepared and finalized by the middle of next week for a presentation to Don Gilbert, Commissioner, HHSC. The Governor's Office and Legislative Budget Board will be briefed after the meeting with Mr. Gilbert. Legislative briefings will begin in April. Plans are to bring new rules to the Board late this summer. Copies of the working drafts were given to Board members. A discussion followed among the Board members and Ms. Stabeno. No action was taken. (*Attachment III*)

Charles E. Bell, M.D., Executive Deputy Commissioner, updated the Board regarding the TDH bioterrorism activities, funding, and a plan due to the Center for Disease Control by April 15, 2002. Copies of the draft will be given to Board members prior to the May Board of Health meeting and will be discussed at that meeting. A timeline for activities is being negotiated with the Health Resources and Services Administration (HRSA) for a funding plan for hospital preparedness. A discussion followed among the Board members and Dr. Bell. No action was taken.

Mr. Jim Elkins, Hospital Director, Texas Center for Infectious Disease (TCID), introduced architects Mr. Bert Mijares and Mr. Carl V. Daniel Jr., partners with Mijares Mora Architects, Inc., and Mr. Bruce Davis, an architect with the General Services Commission, who gave a brief update on the hospital construction projects. Mr. Elkins reported that completion is projected to be July 1, 2004 and invited the Board of Health members to attend a ground-breaking ceremony. (*Attachment IV*)

Dr. Anzaldua announced a recess at 10:04 a.m.

Dr. Anzaldua reconvened the meeting at 10:23 a.m. Other Board members in attendance were Ms. Margo Scholin, Dr. Beverly Robinson, Mr. Raymond Hannigan, Mr. George McCleskey and Dr. Amanullah Khan.

Mr. Mark Scott, Director of Internal Audit, reported on the progress of the 2002 Audit Plan, the consultative role of Internal Audit, a third party audit presentation that was made to the TDH Executive Team, the Jansen and Gregorzyk Report, and the establishment of an Information Technology Audit Section within Internal Audit which will do follow-up work on the PeopleSoft audit and conduct an information systems security audit.

Ms. Debra Stabeno, Deputy Commissioner for Programs, presented an overview of two draft plans for the Rider 15, Management of Federal Block Grant Funds that are being prepared in accordance with the General Appropriations Act for FY 2002/2003, Article II, TDH, Rider 15. Final copies will be sent to Board members in April for their information and input. A discussion followed among the Board members, Dr. Sanchez, Dr. Bell and Ms. Stabeno. No action was taken. (*Attachments V – VIII*)

Dr. Sanchez thanked Ms. Stabeno and Ms. Debra Wanser, Associate Commissioner for Family Health, and staff for drafting plans that work towards a solution that will expand coverage for the most people possible.

Ms. Machel Pharr, Chief Financial Officer, reported on the funding history of Trauma Reporting and Collection in Texas (TRAC-IT) and asked for Board approval to submit a request (Attachment A) to the Governor and Legislative Budget Board to exceed the limitation on capital budget expenditures for the FY 2002/2003 biennium by \$1,287,597. (*Attachment IX - XI*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY DR. KHAN, THE BOARD APPROVED THE SUBMISSION OF A REQUEST (ATTACHMENT A) TO THE GOVERNOR AND LEGISLATIVE BUDGET BOARD TO EXCEED THE LIMITATION ON CAPITAL BUDGET EXPENDITURES FOR THE FY 2002/2003 BIENNIUM BY \$1,287,597.

Rick Danko, Dr. P.H., Office of Strategic Health Planning, summarized the activities associated with the development of the Public Health Improvement Plan (PHIP). The requirement for the plan is a result of the Texas Department of Health's Sunset legislation for a biennial Comprehensive Strategic and Operational Plan. A discussion followed among the Board members, Dr. Sanchez and Dr. Danko. No action was taken. (*Attachments XII - XIII*)

Rick Danko, Dr. P.H., Office of Strategic Health Planning, provided an update on the development of the TDH Strategic Plan for 2003-2007 and requested Board concurrence with the vision, mission and philosophy statements. A discussion followed among the Board members and Dr. Danko. No action was taken. (*Attachments XIII - XV*)

Dr. Beverly Robinson, spoke regarding an appointment to a vacant midwife position to serve on an unexpired term ending January 31, 2003, on the Texas Midwifery Board. There were three applications submitted. (*Attachment XVI*)

ON A MOTION MADE BY DR. ROBINSON AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE APPOINTMENT OF MS. THALIA HUFTON TO THE TEXAS MIDWIFERY BOARD WITH A TERM TO EXPIRE ON JANUARY 31, 2003.

Ms. Debra Wanser, R.N., Aff., Associate Commissioner, Family Health Services, requested approval of proposed rules concerning the County Indigent Health Care Program. The proposed changes will be consistent with the analogous procedures used by the Temporary Assistance for Needy Families (TANF) program, make minor clarifications, access the appropriate funding source of Medicaid and comply with state law. (*Attachment XVII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE COUNTY INDIGENT HEALTH CARE PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD.

Ms. Jann Melton-Kissel, Acting Chief, Bureau of Children's Health, requested approval of final adoption of rules concerning the detection of abnormal spinal curvature in children (the Spinal Screening Program) as required by Government Code, §2001.039. (*Attachment XVIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE SPINAL SCREENING PROGRAM TO BE EFFECTIVE AUGUST 1, 2002.

Ms. Annabelle Dillard, Chief, Field Office & Compliance Branch, Product Safety Division, requested approval of a repeal and new rules concerning regulatory requirements for the retail sale of abusable volatile chemicals. This is required by HB 2950, 77th Legislature, 2001, revised Chapter 485 of the Health and Safety Code, to expand coverage of regulated products under a new definition of abusable volatile chemicals. (*Attachment XIX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. MCCLESKEY THE BOARD APPROVED THE PROPOSED RULES CONCERNING REGULATORY REQUIREMENTS FOR THE RETAIL SALE OF ABUSABLE VOLATILE CHEMICALS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. John M. Evans, Director, Health Facility Licensing and Compliance Division, requested approval of proposed rules concerning the regulation of ambulatory surgical centers. The amendments are proposed based upon the Texas Department of Health's review of the rules as required by Government Code §2001.039. (*Attachment XX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGULATION OF AMBULATORY SURGICAL CENTERS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Becky Berryhill, Chief, Bureau of Licensing and Compliance, requested approval of amendments to the rules concerning the registry for providers of health-related services as required by Government Code §2001.039. Chapter 127 has been reviewed in its entirety and determined that amendments to the sections are necessary to improve draftsmanship and make the rules more accessible, understandable and usable. (*Attachment XXI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGISTRY FOR PROVIDERS OF HEALTH-RELATED SERVICES FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Jim Arnold, Assistant Bureau Chief, Bureau of Emergency Management, requested approval

of a repeal and new rule concerning the approval and requirements for the accrual of continuing education credit for emergency medical services (EMS) personnel. (*Attachment XXII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED REPEAL AND NEW RULE CONCERNING THE STANDARDS AND REQUIREMENTS FOR CONTINUING EDUCATION FOR EMERGENCY MEDICAL SERVICES (EMS) PERSONNEL FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD.

Mr. John M. Evans, Director, Health Facility Licensing and Compliance Division, requested approval of the final adoption of rules concerning the regulation of hospitals as recommended by the Texas Nurses Association and the Texas Hospital Association. (*Attachment XXIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE REGULATION OF HOSPITALS TO BE EFFECTIVE SEPTEMBER 1, 2002, WITH THE FOLLOWING EXCEPTIONS: THE EFFECTIVE DATE FOR §133.41(o)(2)(I)(i) CONCERNING A STAFFING PLAN IS APRIL 1, 2003, FOR HOSPITALS WITH 100 OR FEWER LICENSED BEDS AND LOCATED IN COUNTIES WITH A POPULATION OF LESS THAN 50,000, AND FOR HOSPITALS THAT HAVE BEEN CERTIFIED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AS CRITICAL ACCESS HOSPITALS IN ACCORDANCE WITH THE CODE OF FEDERAL REGULATIONS, TITLE 42, VOLUME 3, PART 485, SUBPART F, §485.606(b). THE EFFECTIVE DATE FOR §133.41(o)(2)(I)(ii) CONCERNING AN ANNUAL EVALUATION IS APRIL 1, 2004, FOR THE HOSPITALS PREVIOUSLY IDENTIFIED IN THIS RESPONSE.

Mr. Richard Bays, Associate Commissioner, Consumer Health Protection, requested approval of

final rules concerning the radiation control fees. Section 289.204 has been reviewed and determined that the reasons for adopting the section continue to exist; however, revisions to the rule are necessary. (*Attachment XXIV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING RADIATION CONTROL FEES TO BE EFFECTIVE MAY 1, 2002.

Ms. Susan K. Steeg, General Counsel, Office of General Counsel, requested approval of a final rule concerning duties of nonprofit hospitals relating to reporting of charity care and community benefits information. This amendment implements Chapter 654 (HB 2419) of the Session Laws (77th Legislature 2001), which amended the Health and Safety Code, Chapter 311. A discussion followed among the Board members and Ms. Steeg. (*Attachment XXV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING DUTIES OF NONPROFIT HOSPITALS RELATING TO REPORTING OF CHARITY CARE AND COMMUNITY BENEFITS INFORMATION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF SECRETARY OF STATE.

Dr. Anzaldua recognized persons to give public comment.

Ms. Gail Johnson, Certified Midwife and Vice Chair of the Texas Midwifery Board, asked that the new midwifery rules be presented to the Board in June to be approved and offered her professional assistance to the Board.

Dr. Anzaldua thanked the City of Fort Worth and County Officials for their welcome and attendance.

Dr. Anzaldua announced the next meeting of the Texas Board of Health will be held on

Thursday, May 2, 2002, in Austin.

The meeting was adjourned at 12:15 p.m.

APPROVED: May 3, 2002

Mario R. Anzaldúa, M.D., Chair
Texas Board of Health

Date